

FIRST REGULAR SESSION

# HOUSE BILL NO. 38

## 91ST GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE GASKILL.

Pre-filed December 1, 2000, and 1000 copies ordered printed.

ANNE C. WALKER, Chief Clerk

0468L.011

---

### AN ACT

To repeal sections 82.1000, 302.302, 302.304, 302.305, 302.510, 302.520, 302.525, 302.541, 306.112, 306.117, 565.024, 577.012, and 577.037, RSMo 2000, relating to certain crimes involving alcohol, and to enact in lieu thereof fourteen new sections relating to the same subject.

---

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 82.1000, 302.302, 302.304, 302.305, 302.510, 302.520, 302.525, 302.541, 306.112, 306.117, 565.024, 577.012, and 577.037, RSMo 2000, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 82.1000, 302.302, 302.304, 302.505, 302.510, 302.520, 302.525, 302.541, 306.112, 306.117, 565.024, 565.027, 577.012, and 577.037, to read as follows:

82.1000. 1. In addition to forfeiture proceedings pursuant to sections 513.600 to 513.645, RSMo, the governing body of any [constitutional charter] city [having a population of more than one hundred thousand inhabitants and located within a county of the first classification that adjoins no other county of the first classification] may enact ordinances which would subject to forfeiture any motor vehicle operated by a person with one or more prior convictions for an intoxication-related traffic offense, as defined in section 577.023, RSMo, who is prohibited from obtaining a license to operate a motor vehicle by the director of revenue pursuant to subdivision (9) or (10) of section 302.060, RSMo, or who has the person's license to operate a motor vehicle suspended or revoked, as a result of a finding or a plea of guilty to:

(1) Any intoxication-related traffic offense as defined in section 577.023, RSMo; or

(2) Involuntary manslaughter as a result of operating a motor vehicle while in an

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

12 intoxicated condition as defined in section 565.024, RSMo. Such forfeiture pursuant to this  
13 subsection shall only be allowed if such person operates a motor vehicle while the person's  
14 license to operate a motor vehicle is under such a suspension or revocation.

15         2. The ordinance allowing forfeitures pursuant to this section may also provide for the  
16 impoundment and forfeiture of a motor vehicle operated by any person who is classified as a  
17 prior offender or persistent offender pursuant to section 577.023, RSMo, after the effective date  
18 of such ordinance, except that a judgment of forfeiture may only be rendered if there is a  
19 conviction of an intoxication-related traffic offense which causes the owner of the motor vehicle  
20 to be classified as a prior or persistent offender.

21         3. The ordinance allowing the forfeitures pursuant to this section may also provide for  
22 the impoundment and forfeiture of a motor vehicle operated by any person who has previously  
23 been convicted of two or more intoxication-related traffic offenses, as defined in section  
24 577.023, RSMo, and who thereafter, pursuant to a chemical test conducted in accordance with  
25 sections 577.020 to 577.041, RSMo, is determined upon probable cause to have been driving a  
26 motor vehicle with a blood-alcohol concentration equal to or greater than the blood-alcohol  
27 percentage concentration specified in subsection 1 of section 302.520, RSMo, or any such person  
28 who, pursuant to section 577.041, RSMo, has been requested to submit to a chemical test as  
29 described pursuant to that section, and refused to submit to such test.

30         4. All forfeiture proceedings pursuant to this section shall be conducted in accordance  
31 with sections 513.600 to 513.645, RSMo, except the forfeiture proceeding shall be brought by  
32 the city attorney for the city which enacted such ordinances.

33         5. The ordinance shall also provide that any person claiming an ownership interest in the  
34 motor vehicle subject to forfeiture shall have all the defenses to the forfeiture proceeding  
35 available to them which they may be entitled to raise pursuant to sections 513.600 to 513.645,  
36 RSMo. The ordinance shall further provide that, in the event the title documents registered with  
37 the department of revenue for the motor vehicle subject to forfeiture, at the time of the action  
38 giving rise to the forfeiture proceeding, list persons as owners or co-owners of the vehicle in  
39 addition to or other than the operator, and the nonoperator owner of the motor vehicle has not  
40 previously been the operator or the owner of, a motor vehicle which has been the subject of a  
41 forfeiture proceeding authorized by this section, the motor vehicle shall be returned to the  
42 nonoperator registered owner and all costs associated with the seizure, towing, storage and  
43 impoundment of the vehicle, and the payment of all court costs and reasonable attorney fees  
44 associated with the forfeiture proceeding shall be paid by the owners or the operator of the  
45 vehicle. To be entitled to return of the vehicle all owners shall execute a written agreement with  
46 the municipality stipulating and consenting to the seizure and forfeiture of the motor vehicle in  
47 the event such motor vehicle is subsequently operated by the same operator under circumstances

48 which would allow the municipality to seek forfeiture of such vehicle pursuant to an ordinance  
 49 authorized by this section.

302.302. 1. The director of revenue shall put into effect a point system for the  
 2 suspension and revocation of licenses. Points shall be assessed only after a conviction or  
 3 forfeiture of collateral. The initial point value is as follows:

4 (1) Any moving violation of a state law or county or municipal or federal traffic  
 5 ordinance or regulation not listed in this section, other than a violation of vehicle equipment  
 6 provisions or a court-ordered supervision as provided in section 302.303 . . . . . 2 points

7 (except any violation of municipal stop sign ordinance where no accident is  
 8 involved . . . . . 1 point)

9 (2) Speeding  
 10 In violation of a state law . . . . . 3 points

11 In violation of a county or municipal ordinance . . . . . 2 points

12 (3) Leaving the scene of an accident in violation of  
 13 section 577.060, RSMo . . . . . 12 points

14 In violation of any county or municipal ordinance . . . . . 6 points

15 (4) Careless and imprudent driving in violation of subsection 4 of section  
 16 304.016, RSMo . . . . . 4 points

17 In violation of a county or municipal ordinance . . . . . 2 points

18 (5) Operating without a valid license in violation of subdivision (1) or (2) of subsection  
 19 1 of section 302.020:

20 (a) For the first conviction . . . . . 2 points

21 (b) For the second conviction . . . . . 4 points

22 (c) For the third conviction . . . . . 6 points

23 (6) Operating with a suspended or revoked license prior to restoration of operating  
 24 privileges . . . . . 12 points

25 (7) Obtaining a license by misrepresentation . . . . . 12 points

26 (8) For the first conviction of driving while in an intoxicated condition or under the  
 27 influence of controlled substances or drugs . . . . . 8 points

28 (9) For the second or subsequent conviction of any of the following offenses however  
 29 combined: driving while in an intoxicated condition, driving under the influence of controlled  
 30 substances or drugs or driving with a blood alcohol content of [ten-hundredths] **eight-**  
 31 **hundredths** of one percent or more by weight . . . . . 12 points

32 (10) For the first conviction for driving with blood alcohol content [ten-hundredths]  
 33 **eight-hundredths** of one percent or more by weight

34 In violation of state law . . . . . 8 points

35           In violation of a county or municipal ordinance or federal law or regulation . 8 points  
36           (11) Any felony involving the use of a motor vehicle . . . . . 12 points  
37           (12) Knowingly permitting unlicensed operator to operate a motor vehicle . 4 points  
38           (13) For a conviction for failure to maintain financial responsibility pursuant to county  
39 or municipal ordinance or pursuant to section 303.025, RSMo . . . . . 4 points  
40           2. The director shall, as provided in subdivision (5) of subsection 1 of this section, assess  
41 an operator points for a conviction pursuant to subdivision (1) or (2) of subsection 1 of section  
42 302.020, when the director issues such operator a license or permit pursuant to the provisions  
43 of sections 302.010 to 302.340.  
44           3. An additional two points shall be assessed when personal injury or property damage  
45 results from any violation listed in subsection 1 of this section and if found to be warranted and  
46 certified by the reporting court.  
47           4. When any of the acts listed in subdivision (2), (3), (4) or (8) of subsection 1 of this  
48 section constitutes both a violation of a state law and a violation of a county or municipal  
49 ordinance, points may be assessed for either violation but not for both. Notwithstanding that an  
50 offense arising out of the same occurrence could be construed to be a violation of subdivisions  
51 (8), (9) and (10) of subsection 1 of this section, no person shall be tried or convicted for more  
52 than one offense pursuant to subdivisions (8), (9) and (10) of subsection 1 of this section for  
53 offenses arising out of the same occurrence.  
54           5. The director of revenue shall put into effect a system for staying the assessment of  
55 points against an operator. The system shall provide that the satisfactory completion of a  
56 driver-improvement program or, in the case of violations committed while operating a  
57 motorcycle, a motorcycle- rider training course approved by the director of the department of  
58 public safety, by an operator, when so ordered and verified by any court having jurisdiction over  
59 any law of this state or county or municipal ordinance, regulating motor vehicles, other than a  
60 violation committed in a commercial motor vehicle as defined in section 302.700, shall be  
61 accepted by the director in lieu of the assessment of points for a violation pursuant to subdivision  
62 (1), (2), or (4) of subsection 1 of this section or pursuant to subsection 3 of this section. For the  
63 purposes of this subsection, the driver-improvement program shall meet or exceed the standards  
64 of the National Safety Council's eight-hour "Defensive Driving Course" or, in the case of a  
65 violation which occurred during the operation of a motorcycle, the program shall meet the  
66 standards established by the director of the department of public safety pursuant to sections  
67 302.133 to 302.138. The completion of a driver-improvement program or a motorcycle-rider  
68 training course shall not be accepted in lieu of points more than one time in any thirty-six-month  
69 period and shall be completed within sixty days of the date of conviction in order to be accepted  
70 in lieu of the assessment of points. Every court having jurisdiction pursuant to the provisions

71 of this subsection shall, within fifteen days after completion of the driver- improvement program  
72 or motorcycle-rider training course by an operator, forward a record of the completion to the  
73 director, all other provisions of the law to the contrary notwithstanding. The director shall  
74 establish procedures for record keeping and the administration of this subsection.

302.304. 1. The director shall notify by ordinary mail any operator of the point value  
2 charged against the operator's record when the record shows four or more points have been  
3 accumulated in a twelve-month period.

4 2. In an action to suspend or revoke a license or driving privilege under this section  
5 points shall be accumulated on the date of conviction. No case file of any conviction for a driving  
6 violation for which points may be assessed pursuant to section 302.302 may be closed until such  
7 time as a copy of the record of such conviction is forwarded to the department of revenue.

8 3. The director shall suspend the license and driving privileges of any person whose  
9 driving record shows the driver has accumulated eight points in eighteen months.

10 4. The license and driving privilege of any person whose license and driving privilege  
11 have been suspended [under] **pursuant to** the provisions of sections 302.010 to 302.540 except  
12 those persons whose license and driving privilege have been suspended [under] **pursuant to** the  
13 provisions of subdivision (8) of subsection 1 of section 302.302 or has accumulated sufficient  
14 points together with a conviction [under] **pursuant to** subdivision (10) of subsection 1 of section  
15 302.302 and who has filed proof of financial responsibility with the department of revenue, in  
16 accordance with chapter 303, RSMo, and is otherwise eligible, shall be reinstated as follows:

17 (1) In the case of an initial suspension, thirty days after the effective date of the  
18 suspension;

19 (2) In the case of a second suspension, sixty days after the effective date of the  
20 suspension;

21 (3) In the case of the third and subsequent suspensions, ninety days after the effective  
22 date of the suspension. Unless proof of financial responsibility is filed with the department of  
23 revenue, a suspension shall continue in effect for two years from its effective date.

24 5. The period of suspension of the driver's license and driving privilege of any person  
25 [under] **pursuant to** the provisions of subdivision (8) of subsection 1 of section 302.302 or who  
26 has accumulated sufficient points together with a conviction [under] **pursuant to** subdivision  
27 (10) of subsection 1 of section 302.302 shall be [thirty] **sixty** days, followed by a [sixty-day] **one**  
28 **hundred twenty-day** period of restricted driving privilege issued by the director of revenue for  
29 the limited purpose of driving between a residence and a place of employment, or to and from  
30 an alcohol education or treatment program, or for both between a residence and a place of  
31 employment and to and from such a program. Upon completion of such period of restricted  
32 driving privilege, upon compliance with other requirements of law and upon filing of proof of

33 financial responsibility with the department of revenue, in accordance with chapter 303, RSMo,  
34 the license and driving privilege shall be reinstated.

35 6. If the person fails to maintain proof of financial responsibility in accordance with  
36 chapter 303, RSMo, the person's driving privilege and license shall be resuspended.

37 7. The director shall revoke the license and driving privilege of any person when the  
38 person's driving record shows such person has accumulated twelve points in twelve months or  
39 eighteen points in twenty-four months or twenty-four points in thirty-six months. The revocation  
40 period of any person whose license and driving privilege have been revoked [under] **pursuant**  
41 **to** the provisions of sections 302.010 to 302.540 and who has filed proof of financial  
42 responsibility with the department of revenue in accordance with chapter 303, RSMo, and is  
43 otherwise eligible, shall be terminated by a notice from the director of revenue after one year  
44 from the effective date of the revocation. Unless proof of financial responsibility is filed with  
45 the department of revenue, except as provided in subsection 2 of section 302.541, the revocation  
46 shall remain in effect for a period of two years from its effective date. If the person fails to  
47 maintain proof of financial responsibility in accordance with chapter 303, RSMo, the person's  
48 license and driving privilege shall be rerevoked. Any person whose license and driving privilege  
49 have been revoked [under] **pursuant to** the provisions of sections 302.010 to 302.540 shall,  
50 upon receipt of the notice of termination of the revocation from the director, pass the complete  
51 driver examination and apply for a new license before again operating a motor vehicle upon the  
52 highways of this state.

53 8. If, prior to conviction for an offense that would require suspension or revocation of  
54 a person's license [under] **pursuant to** the provisions of this section, the person's total points  
55 accumulated are reduced, pursuant to the provisions of section 302.306, below the number of  
56 points required for suspension or revocation pursuant to the provisions of this section, then the  
57 person's license shall not be suspended or revoked until the necessary points are again obtained  
58 and accumulated.

59 9. If any person shall neglect or refuse to surrender the person's license, as provided  
60 [herein] **pursuant to this section**, the director shall direct the state highway patrol or any peace  
61 or police officer to secure possession thereof and return it to the director.

62 10. Upon the issuance of a reinstatement or termination notice after a suspension or  
63 revocation of any person's license and driving privilege [under] **pursuant to** the provisions of  
64 sections 302.010 to 302.540, the accumulated point value shall be reduced to four points, except  
65 that the points of any person serving as a member of the armed forces of the United States  
66 outside the limits of the United States during a period of suspension or revocation shall be  
67 reduced to zero upon the date of the reinstatement or termination of notice. It shall be the  
68 responsibility of such member of the armed forces to submit copies of official orders to the

69 director of revenue to substantiate such overseas service. Any other provision of sections  
70 302.010 to 302.540 to the contrary notwithstanding, the effective date of the four points  
71 remaining on the record upon reinstatement or termination shall be the date of the reinstatement  
72 or termination notice.

73 11. No credit toward reduction of points shall be given during periods of suspension or  
74 revocation or any period of driving under a hardship driving privilege granted by a court.

75 12. Any person or nonresident whose license or privilege to operate a motor vehicle in  
76 this state has been suspended or revoked [under] **pursuant to** this or any other law shall, before  
77 having the license or privilege to operate a motor vehicle reinstated, pay to the director a  
78 reinstatement fee of twenty dollars which shall be in addition to all other fees provided by law.

79 13. Notwithstanding any other provision of law to the contrary, if after two years from  
80 the effective date of any suspension or revocation issued [under] **pursuant to** this chapter, the  
81 person or nonresident has not paid the reinstatement fee of twenty dollars, the director shall  
82 reinstate such license or privilege to operate a motor vehicle in this state.

83 14. No person who has had a license to operate a motor vehicle suspended or revoked  
84 as a result of an assessment of points for a violation [under] **of** subdivision (8), (9) or (10) of  
85 subsection 1 of section 302.302 shall have that license reinstated until such person has  
86 participated in and successfully completed a substance abuse traffic offender program defined  
87 in section 302.010, except the department may waive such requirement upon completion of a  
88 comparable program or upon good cause shown or the court may waive such requirement upon  
89 good cause shown. The court in making this determination shall consider the person's driving  
90 record, the circumstances surrounding the offense and the likelihood of the person committing  
91 a like offense in the future. Assignment recommendations, based upon the needs assessment as  
92 described in subdivision (21) of section 302.010, shall be delivered in writing to the person with  
93 written notice that the person is entitled to have such assignment recommendations reviewed by  
94 the court if the person objects to the recommendations. The person may file a motion in the  
95 associate division of the circuit court, on a printed form provided by the state courts  
96 administrator, to have the court hear and determine such motion pursuant to the provisions of  
97 chapter 517, RSMo, after reviewing such assessment. The motion shall name the person or  
98 entity making the needs assessment as the respondent and a copy of the motion shall be served  
99 upon the respondent in any manner allowed by law. Such assessment and compliance with the  
100 court determination of the motion shall satisfy the provisions of this section for the purpose of  
101 reinstating such person's license to operate a motor vehicle. The respondent's personal  
102 appearance at any hearing conducted pursuant to this subsection shall not be necessary unless  
103 directed by the court.

104 15. The fees for the program authorized in subsection 14 of this section, or a portion

105 thereof to be determined by the department of mental health, shall be paid by the person enrolled  
106 in the program. Any person who is enrolled in the program shall pay, in addition to any fee  
107 charged for the program, a supplemental fee of sixty dollars. The administrator of the program  
108 shall remit to the division of alcohol and drug abuse of the department of mental health the  
109 supplemental fee for all persons enrolled in the program, less two percent for administrative  
110 costs. The supplemental fees received by the department of mental health pursuant to this  
111 section shall be deposited in the mental health earnings fund which is created in section 630.053,  
112 RSMo.

302.505. 1. The department shall suspend or revoke the license of any person upon its  
2 determination that the person was arrested upon probable cause to believe such person was  
3 driving a motor vehicle while the alcohol concentration in the person's blood, breath, or urine  
4 was [ten-hundredths] **eight-hundredths** of one percent or more by weight, based on the  
5 definition of alcohol concentration in section 302.500, or where such person was less than  
6 twenty-one years of age when stopped and was stopped upon probable cause to believe such  
7 person was driving while intoxicated in violation of section 577.010, RSMo, or driving with  
8 excessive blood alcohol content in violation of section 577.012, RSMo, or upon probable cause  
9 to believe such person violated a state, county or municipal traffic offense and such person was  
10 driving with a blood alcohol content of two-hundredths of one percent or more by weight.

11 2. The department shall make a determination of these facts on the basis of the report of  
12 a law enforcement officer required in section 302.510, and this determination shall be final  
13 unless a hearing is requested and held. If a hearing is held, the department shall review the  
14 matter and make a final determination on the basis of evidence received at the hearing.

15 3. The determination of these facts by the department is independent of the determination  
16 of the same or similar facts in the adjudication of any criminal charges arising out of the same  
17 occurrence. The disposition of those criminal charges shall not affect any suspension or  
18 revocation under this section.

302.510. 1. Except as provided in subsection 3 of this section, a law enforcement officer  
2 who arrests any person for a violation of any state statute related to driving while intoxicated or  
3 for a violation of a county or municipal ordinance prohibiting driving while intoxicated or a  
4 county or municipal alcohol related traffic offense, and in which the alcohol concentration in the  
5 person's blood, breath, or urine was [ten-hundredths] **eight-hundredths** of one percent or more  
6 by weight or two-hundredths of one percent or more by weight for anyone less than twenty-one  
7 years of age, shall forward to the department a verified report of all information relevant to the  
8 enforcement action, including information which adequately identifies the arrested person, a  
9 statement of the officer's grounds for belief that the person violated any state statute related to  
10 driving while intoxicated or was less than twenty-one years of age and was driving with



11 two-hundredths of one percent or more by weight of alcohol in the person's blood, or a county  
12 or municipal ordinance prohibiting driving while intoxicated or a county or municipal alcohol  
13 related traffic offense, a report of the results of any chemical tests which were conducted, and  
14 a copy of the citation and complaint filed with the court.

15 2. The report required by this section shall be made on forms supplied by the department  
16 or in a manner specified by regulations of the department.

17 3. A county or municipal ordinance prohibiting driving while intoxicated or a county or  
18 municipal alcohol related traffic offense may not be the basis for suspension or revocation of a  
19 driver's license pursuant to sections 302.500 to 302.540, unless the arresting law enforcement  
20 officer, other than an elected peace officer or official, has been certified by the director of the  
21 department of public safety pursuant to the provisions of sections 590.100 to 590.180, RSMo.

302.520. 1. Whenever the chemical test results are available to the law enforcement  
2 officer while the arrested person is still in custody, and where the results show an alcohol  
3 concentration of [ten-hundredths] **eight-hundredths** of one percent or more by weight of alcohol  
4 in such person's blood or where such person is less than twenty-one years of age and the results  
5 show that there is two-hundredths of one percent or more of alcohol in the person's blood, the  
6 officer, acting on behalf of the department, shall serve the notice of suspension or revocation  
7 personally on the arrested person.

8 2. When the law enforcement officer serves the notice of suspension or revocation, the  
9 officer shall take possession of any driver's license issued by this state which is held by the  
10 person. When the officer takes possession of a valid driver's license issued by this state, the  
11 officer, acting on behalf of the department, shall issue a temporary permit which is valid for  
12 fifteen days after its date of issuance and shall also give the person arrested a notice which shall  
13 inform the person of all rights and responsibilities pursuant to sections 302.500 to 302.540. The  
14 notice shall be in such form so that the arrested person may sign the original as evidence of  
15 receipt thereof. The notice shall also contain a detachable form permitting the arrested person  
16 to request a hearing. Signing the hearing request form and mailing such request to the  
17 department shall constitute a formal application for a hearing.

18 3. A copy of the completed notice of suspension or revocation form, a copy of any  
19 completed temporary permit form, a copy of the notice of rights and responsibilities given to the  
20 arrested person, including any request for hearing, and any driver's license taken into possession  
21 pursuant to this section shall be forwarded to the department by the officer along with the report  
22 required in section 302.510.

23 4. The department shall provide forms for notice of suspension or revocation, for notice  
24 of rights and responsibilities, for request for a hearing and for temporary permits to law  
25 enforcement agencies.

302.525. 1. The license suspension or revocation shall become effective fifteen days after the subject person has received the notice of suspension or revocation as provided in section 302.520, or is deemed to have received the notice of suspension or revocation by mail as provided in section 302.515. If a request for a hearing is received by or postmarked to the department within that fifteen-day period, the effective date of the suspension or revocation shall be stayed until a final order is issued following the hearing; provided, that any delay in the hearing which is caused or requested by the subject person or counsel representing that person without good cause shown shall not result in a stay of the suspension or revocation during the period of delay.

2. The period of license suspension or revocation [under] **pursuant to** this section shall be as follows:

(1) If the person's driving record shows no prior alcohol related enforcement contacts during the immediately preceding five years, the period of suspension shall be [thirty] **sixty** days after the effective date of suspension, followed by a [sixty-day] **one hundred twenty-day** period of restricted driving privilege issued by the director of revenue for the limited purpose of driving in connection with the person's business, occupation, or employment, and to and from an alcohol education or treatment program. The restricted driving privilege shall not be issued until he or she has filed proof of financial responsibility with the department of revenue, in accordance with chapter 303, RSMo, and is otherwise eligible. In no case shall restricted driving privileges be issued pursuant to this section or section 302.535 until the person has completed the first [thirty] **sixty** days of a suspension under this section;

(2) The period of revocation shall be [one year] **two years** if the person's driving record shows one or more prior alcohol related enforcement contacts during the immediately preceding five years.

3. For purposes of this section, "alcohol related enforcement contacts" shall include any suspension or revocation [under] **pursuant to** sections 302.500 to 302.540, any suspension or revocation entered in this or any other state for a refusal to submit to chemical testing under an implied consent law, and any conviction in this or any other state for a violation which involves driving a vehicle while having an unlawful alcohol concentration.

4. Where a license is suspended or revoked [under] **pursuant to** this section and the person is also convicted on charges arising out of the same occurrence for a violation of section 577.010 or 577.012, RSMo, or for a violation of any county or municipal ordinance prohibiting driving while intoxicated or alcohol related traffic offense, both the suspension or revocation [under] **pursuant to** this section and any other suspension or revocation [under] **pursuant to** this chapter shall be imposed, but the period of suspension or revocation under sections 302.500 to 302.540 shall be credited against any other suspension or revocation imposed [under] **pursuant**

37 to this chapter, and the total period of suspension or revocation shall not exceed the longer of the  
38 two suspension or revocation periods.

302.541. 1. In addition to other fees required by law, any person who has had a license  
2 to operate a motor vehicle suspended or revoked following a determination, pursuant to section  
3 302.505, or section 577.010, 577.012, 577.041 or 577.510, RSMo, or any county or municipal  
4 ordinance, where the judge in such case was an attorney and the defendant was represented by  
5 or waived the right to an attorney, that such person was driving while intoxicated or with a blood  
6 alcohol content of [ten-hundredths] **eight-hundredths** of one percent or more by weight or,  
7 where such person was at the time of the arrest less than twenty-one years of age and was driving  
8 with a blood alcohol content of two-hundredths of one percent or more by weight, shall pay an  
9 additional fee of twenty-five dollars prior to the reinstatement or reissuance of the license.

10 2. Any person less than twenty-one years of age whose driving privilege has been  
11 suspended or revoked solely for a first determination pursuant to sections 302.500 to 302.540  
12 that such person was driving a motor vehicle with two-hundredths of one percent or more blood  
13 alcohol content is exempt from filing proof of financial responsibility with the department of  
14 revenue in accordance with chapter 303, RSMo, as a prerequisite for reinstatement of driving  
15 privileges or obtaining a restricted driving privilege as provided by section 302.525.

306.112. 1. A person commits the crime of operating a vessel with excessive blood  
2 alcohol content if [he] **the person** operates a vessel on the Mississippi River, Missouri River or  
3 the lakes of this state with [ten-hundredths] **eight-hundredths** of one percent or more by weight  
4 of alcohol in [his] **such person's** blood.

5 2. As used in this section, percent by weight of alcohol in the blood shall be based upon  
6 grams of alcohol per one hundred milliliters of blood and may be shown by chemical analysis  
7 of the person's blood, breath, or saliva.

8 3. Any person convicted of operating a vessel with excessive blood alcohol content is  
9 guilty of a class B misdemeanor upon conviction for the first violation, guilty of a class A  
10 misdemeanor upon conviction for the second violation, and guilty of a class D felony for  
11 conviction for the third and subsequent violations.

306.117. 1. Upon the trial of any person for violation of any of the provisions of section  
2 306.111 or 306.112 the amount of alcohol or drugs in the person's blood at the time of the act  
3 alleged as shown by any chemical analysis of the person's blood, breath, or saliva is admissible  
4 in evidence and the provisions of subdivision (5) of section 491.060, RSMo, shall not prevent  
5 the admissibility or introduction of such evidence if otherwise admissible. Evidence of alcohol  
6 in a person's blood shall be given the following effect:

7 (1) If there was five-hundredths of one percent or less by weight of alcohol in [his] **the**  
8 **person's** blood, it shall be presumed that the person was not intoxicated at the time the specimen

9 was obtained;

10 (2) If there was in excess of five-hundredths of one percent but less than  
11 [ten-hundredths] **eight-hundredths** of one percent by weight of alcohol in [his] **the person's**  
12 blood, the fact shall not give rise to any presumption that the person was or was not intoxicated,  
13 but the fact may be considered with other competent evidence in determining whether the person  
14 was intoxicated;

15 (3) If there was [ten-hundredths] **eight-hundredths** of one percent or more by weight  
16 of alcohol in the person's blood, this shall be prima facie evidence that the person was  
17 intoxicated at the time the specimen was taken.

18 2. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per  
19 one hundred milliliters of blood.

20 3. A chemical analysis of a person's breath, blood, or saliva, in order to give rise to the  
21 presumption or to have the effect provided for in subsection 1 of this section, shall have been  
22 performed as provided in sections 306.111 to 306.119 and in accordance with methods and  
23 standards approved by the department of health.

24 4. The provisions of this section shall not be construed as limiting the introduction of  
25 any other competent evidence bearing upon the question whether the person was intoxicated or  
26 under the influence of a controlled substance, or drug, or a combination of either or both with  
27 or without alcohol.

565.024. 1. A person commits the crime of involuntary manslaughter in the first degree  
2 if [he:

3 (1)] **such person** recklessly causes the death of another person[; or

4 (2) While in an intoxicated condition operates a motor vehicle in this state and, when so  
5 operating, acts with criminal negligence to cause the death of any person].

6 2. Involuntary manslaughter in the first degree is a class C felony.

7 3. A person commits the crime of involuntary manslaughter in the second degree if [he]  
8 **such person** acts with criminal negligence to cause the death of any person.

9 4. Involuntary manslaughter in the second degree is a class D felony.

**565.027. 1. A person commits the crime of vehicular homicide by an intoxicated**  
2 **person if, while in an intoxicated condition, such person operates a motor vehicle in this**  
3 **state and, when so operating, acts with criminal negligence to cause the death of any**  
4 **person.**

5 **2. Vehicular homicide by an intoxicated person is a class B felony.**

577.012. 1. A person commits the crime of "driving with excessive blood alcohol  
2 content" if such person operates a motor vehicle in this state with [ten-hundredths] **eight-**  
3 **hundredths** of one percent or more by weight of alcohol in such person's blood.

2. As used in this section, percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood or two hundred ten liters of breath and may be shown by chemical analysis of the person's blood, breath, saliva or urine. For the purposes of determining the alcoholic content of a person's blood under this section, the test shall be conducted in accordance with the provisions of sections 577.020 to 577.041.

3. For the first offense, driving with excessive blood alcohol content is a class C misdemeanor.

577.037. 1. Upon the trial of any person for violation of any of the provisions of section 565.024, RSMo, or section 565.060, RSMo, or section 577.010 or 577.012, or upon the trial of any criminal action or violations of county or municipal ordinances or in any license suspension or revocation proceeding pursuant to the provisions of chapter 302, RSMo, arising out of acts alleged to have been committed by any person while driving a motor vehicle while in an intoxicated condition, the amount of alcohol in the person's blood at the time of the act alleged as shown by any chemical analysis of the person's blood, breath, saliva or urine is admissible in evidence and the provisions of subdivision (5) of section 491.060, RSMo, shall not prevent the admissibility or introduction of such evidence if otherwise admissible. If there was [ten-hundredths] **eight-hundredths** of one percent or more by weight of alcohol in the person's blood, this shall be prima facie evidence that the person was intoxicated at the time the specimen was taken.

2. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood or grams of alcohol per two hundred ten liters of breath.

3. The foregoing provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was intoxicated.

4. A chemical analysis of a person's breath, blood, saliva or urine, in order to give rise to the presumption or to have the effect provided for in subsection 1 of this section, shall have been performed as provided in sections 577.020 to 577.041 and in accordance with methods and standards approved by the state department of health.

5. Any charge alleging a violation of section 577.010 or 577.012 or any county or municipal ordinance prohibiting driving while intoxicated or driving under the influence of alcohol shall be dismissed with prejudice if a chemical analysis of the defendant's breath, blood, saliva, or urine performed in accordance with sections 577.020 to 577.041 and rules promulgated thereunder by the state department of health demonstrate that there was less than [ten-hundredths] **eight-hundredths** of one percent of alcohol in the defendant's blood unless one or more of the following considerations cause the court to find a dismissal unwarranted:

(1) There is evidence that the chemical analysis is unreliable as evidence of the

30 defendant's intoxication at the time of the alleged violation due to the lapse of time between the  
31 alleged violation and the obtaining of the specimen;

32 (2) There is evidence that the defendant was under the influence of a controlled  
33 substance, or drug, or a combination of either or both with or without alcohol; or

34 (3) There is substantial evidence of intoxication from physical observations of witnesses  
35 or admissions of the defendant.

36 **6. If a person is convicted of or pleads guilty to an alcohol-related municipal law**  
37 **violation within one year of a prior conviction or plea of guilt for an alcohol related**  
38 **municipal law violation, no suspended execution of sentence or suspended imposition of**  
39 **sentence shall be permitted and the court shall order a minimum sentence of sixty days'**  
40 **incarceration.**